

SAN DIEGO ETHICS COMMISSION REVIEW OF THE CITY'S Municipal Lobbying Ordinance

PROPOSED AMENDMENTS

Rev. September 5, 2008

Proposed Effective Date: January 1, 2009

Chapter 2: Government

Article 7: Elections, Campaign Finance and Lobbying

Division 40: Municipal Lobbying

§27.4002 Definitions

All defined terms in this division appear in italics. Unless the context otherwise indicates, the defined terms have the meanings set forth below.

....

New
term

Chairperson means the compensated or uncompensated chairperson of an organization's board of directors.

....

'Lobbying
activities'
changed to
'lobbying'

Client means any *person* who provides *compensation* to a *lobbying firm* for the purpose of *influencing a municipal decision*, and any *person* on whose behalf *lobbying activities* ~~are~~ is performed by a *lobbying firm*.

- (a) *Client* includes any *person* that retains a *lobbying firm* to engage in *lobbying activities* pursuant to a contingency agreement.
- (b) If a coalition or membership organization is a *client*, a member of that coalition or organization is not also a *client* unless that member paid, or agreed to pay, at least \$1,000 to the *lobbying firm* for *lobbying activities* performed on behalf of the coalition or organization with regard to a specific *municipal decision*. For purposes of this subsection, if a member is an individual, payments by that individual's *immediate family* are attributable to that individual member.

....

Add'l type
of 'lobbying
activities'

Lobbying activities means the following and similar activities that are related to an attempt to *influence a municipal decision*: (a) *lobbying*; (b) monitoring *municipal decisions*; (c) preparing testimony and presentations; (d) engaging in research, investigation, and fact-gathering; (e) attending hearings; (f) communicating with clients; ~~and~~ (g) waiting to meet

with *City Officials*; and (h) communications with *City* employees that are not *lobbying contacts*.

Lobbying firm means any entity that receives or becomes entitled to receive any amount of monetary or in-kind *compensation* to engage in *lobbying activities* on behalf of any other *person*, and that has at least one *direct communication* with a *City Official* for the purpose of *influencing a municipal decision*. A *lobbying firm* includes any entity that engages in *lobbying activities* on behalf of another *person* pursuant to a contingency fee agreement.

....

'Lobbyist' is limited to paid individuals and an organization's chair

Lobbyist means any individual who engages in *lobbying activities* on behalf of a *client* ~~or~~ and any individual owner, compensated officer, *chairperson*, or employee who engages in *lobbying on behalf of an organization lobbyist*.

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§27.4009 Contents of Registration Form

- (a) Every *lobbying firm* shall file with the *City Clerk* a registration form that contains the following information:
- (1) the *lobbying firm's* name, address, and telephone number.
 - (2) the name of each individual employed by the *lobbying firm*:
 - (A) who has engaged in *lobbying* the *City* within the previous 30 calendar days, or
 - (B) who the *lobbying firm* reasonably anticipates will engage in *lobbying* the *City* in the future.
 - (3) a listing of all owners, officers, and *lobbyists* of the *lobbying firm* who engaged in *fundraising activities* for a current elected *City Official* during the two year period preceding the filing date, along with the name of each applicable *City Official*. Notwithstanding the requirements of this subsection, *lobbying firms* have no obligation to report *fundraising activities* that took place prior to January 1, 2007.
 - (4) a listing of all owners, officers, and *lobbyists* of the *lobbying firm* who personally provided compensated campaign-related services to a current elected *City Official* during the two year period preceding the filing date, along with the name of each applicable *City Official*. Notwithstanding the requirements of this subsection, *lobbying firms* have no obligation to report campaign-related services that were rendered prior to January 1, 2007.
 - (5) a listing of all owners, officers, and *lobbyists* of the *lobbying firm* who personally provided compensated services under a contract with the *City*

Clarifies that firm must have 1 lobbying contact for client before it is required to register that client

during the two year period preceding the filing date, along with the name of the *City* department, agency, or board for which the services were provided. Notwithstanding the requirements of this subsection, *lobbying firms* have no obligation to report compensated services provided prior to January 1, 2007.

- (6) for each *client* for whom the *lobbying firm* ~~engages in lobbying activities~~ has had at least one lobbying contact:
 - (A) the *client's* name, business or mailing address, and telephone number; in addition, if the *client* is a coalition or membership organization, include the name, business or mailing address, and telephone number of each member who also qualifies as a *client* under section 27.4002.
 - (B) a specific description of each *client* in sufficient detail to inform the public of the nature and purpose of the *client's* business; and,
 - (C) the specific *municipal decision(s)* for which the *lobbying firm* was retained to represent the *client*, or a description of the type(s) of *municipal decision(s)* for which the *lobbying firm* was retained to represent the *client*, and the outcome(s) sought by the *client*;
 - (7) statements by a duly authorized owner or officer of the *lobbying firm* that he or she:
 - (A) reviewed and understands the requirements of Division 40 governing municipal lobbying; and,
 - (B) reviewed the contents of the registration form and verified under penalty of perjury that based on personal knowledge or on information and belief that he or she believes such contents to be true, correct, and complete.
 - (8) the printed name, title, and original signature of the individual making the statements required by subsection (a)(7).
 - (9) any other information required by regulation of the *Enforcement Authority* consistent with the purposes and provisions of this division, and as approved by the *City Council*.
- (b) Every *organization lobbyist* shall file with the *City Clerk* a registration form that contains the following information:
- (1) the *organization lobbyist's* name, address, and telephone number.
 - (2) a specific description of the *organization lobbyist* in sufficient detail to inform the public of the nature and purpose of its business.

Clarifies who is required to be listed as a lobbyist

(3) the name of each owner, compensated officer, chairperson, and employee of the *organization lobbyist* who is authorized to *lobby City Officials* on behalf of the *organization lobbyist*.

(4) the total number of *lobbying contacts* with *City Officials* made on behalf of the *organization lobbyist* by the *organization lobbyist's* owners, compensated officers, chairperson, ~~or~~ and employees during the 60 calendar days preceding the filing date.

entity must disclose current matters it is seeking to influence

(5) a description of each *municipal decision* the *organization lobbyist* ~~has~~ is seeking to influence, including decisions the *organization lobbyist* sought to influence during the 60 calendar days preceding the filing date; and the outcome sought by the *organization lobbyist*.

Clarifies that disclosure is required of chair who lobbies

(6) a listing of all owners, compensated officers, and *lobbyists* (including any chairperson who is a lobbyist) of the *organization lobbyist* who engaged in *fundraising activities* for a current elected *City Official* during the two year period preceding the filing date, along with the name of each applicable *City Official*. Notwithstanding the requirements of this subsection, *organization lobbyists* have no obligation to report *fundraising activities* that took place prior to January 1, 2007.

(7) a listing of all owners, compensated officers, and *lobbyists* (including any chairperson who is a lobbyist) of the *organization lobbyist* who personally provided compensated campaign-related services to a current elected *City Official* during the two year period preceding the filing date, along with the name of each applicable *City Official*. Notwithstanding the requirements of this subsection, *organization lobbyists* have no obligation to report campaign-related services that were rendered prior to January 1, 2007.

(8) a listing of all owners, compensated officers, and *lobbyists* (including any chairperson who is a lobbyist) of the *organization lobbyist* who personally provided compensated services under a contract with the *City* during the two year period preceding the filing date, along with the name of the *City* department, agency, or board for which the services were provided. Notwithstanding the requirements of this subsection, *organization lobbyists* have no obligation to report compensated services provided prior to January 1, 2007.

(9) statements by a duly authorized owner or officer of the *organization lobbyist* that he or she:

(A) reviewed and understands the requirements of Division 40 governing municipal lobbying; and,

- (B) reviewed the contents of the registration form and verified under penalty of perjury that based on personal knowledge or on information and belief that he or she believes such contents to be true, correct, and complete.
- (10) the printed name, title, and original signature of the individual making the statements required by subsection (b)(9).
- (11) any other information required by regulation of the *Enforcement Authority* consistent with the purposes and provisions of this division, and as approved by the *City Council*.

§27.4010 Registration Fees

- (a) At the time a *lobbying firm* registers pursuant to section 27.4007, the *lobbying firm* shall pay an annual registration fee based on the number of *lobbyists* identified on its registration form, plus an annual *client* registration fee for each *client* identified on the registration form.
 - (1) A *lobbying firm* that initially qualifies to register during the last quarter of a calendar year (October through December) pursuant to section 27.4007 shall pay prorated registration fees.
 - (2) When a *lobbying firm* adds a *lobbyist* subsequent to the *lobbying firm's* initial registration, the *lobbying firm* shall pay an additional *lobbyist* registration fee when filing its amended registration form as required by section 27.4012.
 - (3) When a *lobbying firm* acquires a *client* subsequent to the *lobbying firm's* initial registration, the *lobbying firm* shall pay an additional *client* registration fee when filing its amended registration form as required by section 27.4012.
 - (4) For the purpose of determining *client* registration fees, a coalition or membership organization shall be considered a single *client*, even if one or more of its members also qualify as *clients* under section 27.4002.
 - (5) Registration fees may be paid or reimbursed by a *client*.
- (b) At the time an *organization lobbyist* registers pursuant to section 27.4007, the *organization lobbyist* shall pay an annual *organization lobbyist* registration fee.
 - (1) An *organization lobbyist* that initially qualifies to register during the last quarter of a calendar year (October through December) pursuant to section 27.4007 shall pay a prorated registration fee.
 - (2) An *organization lobbyist* shall pay a single registration fee regardless of the number of its owners, officers, and employees who engage in *lobbying activities*.

'lobbying activities' changed to 'lobbying'

- (c) All registration fees shall be set by the *City Council* based upon the recommendation of the *City Clerk*. The *City Clerk* shall from time to time recommend fee amounts to the *City Council* that reflect, but do not exceed, the *City's* costs of administering the filing requirements set forth in this division. A copy of the fee schedule shall be filed in the rate book of fees on file in the office of the *City Clerk*.

§27.4017 Contents of Quarterly Disclosure Report

- (a) Each *lobbying firm's* quarterly disclosure report shall contain the following information:

(1) the *lobbying firm's* name, address, and telephone number.

(2) the name, business or mailing address, and telephone number of each *client* ~~represented~~ registered by the *lobbying firm* ~~during the reporting period~~ (except that if the *client* is a coalition or membership organization, such identifying information need not be disclosed for any of its members who also qualify as *clients* under section 27.4002), along with the following information for that *client*:

Replaces
'represented'
with 'registered'
to clarify which
clients need to
be listed on
quarterly
statement

(A) the specific *municipal decision(s)* for which the *lobbying firm* represented the *client* during the reporting period, and the outcome(s) sought by the *client*;

(B) the name and department of each *City Official* who was subject to *lobbying* by the *lobbying firm* with regard to that specific *municipal decision*;

Only lobbyists
who actually
lobby must be
identified

(C) the name of each *lobbyist* employed by the *lobbying firm* who engaged in *lobbying activities* with regard to that specific *municipal decision*; ~~and~~,

(D) the total *compensation* that the *lobbying firm* became entitled to receive for engaging in *lobbying activities* during the reporting period on behalf of that *client*. Such *compensation* shall be disclosed to the nearest thousand dollars; ~~and~~,

For each
registered
client, firm must
state whether or
not it engaged
in lobbying
during the
quarter

(E) if the *lobbying firm* did not engage in any *lobbying* for the *client* during the reporting period, a statement to that effect shall be made instead of providing the information required by subsections (a)(2)(A) through (a)(2)(D).

(3) an itemization of *activity expenses* that includes the following:

(A) the date, amount, and description of any *activity expense* that exceeds \$10 on any single occasion made by the *lobbying firm* or any of its *lobbyists* during the reporting period for the benefit of a

single *City Official* or any member of a *City Official's immediate family*;

- (B) the name, title, and department of the *City Official* who benefited, or whose *immediate family* benefited, from the itemized *activity expense*;
- (C) the name of each *lobbyist* who participated in making the *activity expense*;
- (D) the name and address of the payee of each itemized *activity expense*; and,
- (E) the name of the *client*, if any, on whose behalf each itemized *activity expense* was made.

- (4) an itemization of any campaign contributions ~~of~~ totaling \$100 or more made by owners, officers, or *lobbyists* of the *lobbying firm* to a *candidate* or a *candidate-controlled* committee during the reporting period, including the date and amount of the contribution and the name of the *candidate* supported.

Clarifies that disclosure is required of small contributions that aggregate to at least \$100

- (5) an itemization of any campaign contributions ~~of~~ totaling \$100 or more made by the *lobbying firm* or any of its owners, officers, or *lobbyists* during the reporting period to a *candidate-controlled* committee that is organized to support or oppose a ballot measure, including the name of the *candidate*, the date and amount of the contribution, and the name of the ballot measure committee.

- (6) for each ~~instance of fundraising activity~~ fundraising effort by an owner, officer, or *lobbyist* of the *lobbying firm* who engaged in fundraising activities during the reporting period:

Clarifies disclosure requirement for efforts that collectively reach the fundraising activity threshold

- (A) the name of the owner, officer, or *lobbyist* who engaged in the *fundraising activity*;
- (B) the name of the elected *City Official* or *candidate* benefiting from the *fundraising activity*;
- (C) a description of the ballot measure, if any;
- (D) the date(s) of the *fundraising activity*;
- (E) a brief description of the *fundraising activity*; and
- (F) the approximate amount of (i) all contributions personally delivered by the owner, officer, or *lobbyist* to a *candidate* or a *candidate's* controlled committee; and (ii) all contributions for which the owner,

officer, or *lobbyist* has identified himself or herself to a *candidate* or a *candidate's* controlled committee as having some degree of responsibility for raising.

Clarifies that disclosure is required for campaign worker whose compensation is contingency based.

- (7) for each owner, officer, and *lobbyist* of the *lobbying firm* who personally provided ~~compensated~~ campaign-related services to a *candidate* or a *candidate-controlled* committee during the reporting period in exchange for compensation or pursuant to a contingency fee agreement:
- (A) the name of the owner, officer, or *lobbyist* who provided the services;
 - (B) the *candidate's* name, and the office sought by that *candidate*;
 - (C) the name of the *candidate-controlled* ballot measure committee and a description of the ballot measure, if applicable;
 - (D) the approximate amount of *compensation* earned during the reporting period for the services provided to the *candidate* or *candidate-controlled* committee; and,
 - (E) a description of the services provided.
- (8) for each owner, officer, and *lobbyist* of the *lobbying firm* who personally provided compensated services under a contract with the *City* during the reporting period:
- (A) the name of the owner, officer, or *lobbyist* who provided the services;
 - (B) the name of the department, agency, or board for which the services were provided;
 - (C) the approximate amount of *compensation* earned during the reporting period for the services provided under the contract; and,
 - (D) a description of the services provided.
- (9) a statement by a duly authorized owner or officer of the *lobbying firm* that he or she has reviewed the contents of the quarterly disclosure report and verified under penalty of perjury that based on personal knowledge or on information and belief, that he or she believes such contents to be true, correct, and complete.
- (10) the printed name, title, and original signature of the individual making the statement required by subsection (a)(9).

- (11) any other information required by regulation of the *Enforcement Authority* consistent with the purposes and provisions of this division, and as approved by the *City Council*.
- (b) Each *organization lobbyist's* quarterly disclosure report shall contain the following information:
 - (1) the *organization lobbyist's* full name, address, and telephone number.
 - (2) for each *municipal decision(s)* for which the *organization lobbyist* engaged in *lobbying activities* during the reporting period:
 - (A) a description of the specific *municipal decision*, and the outcome sought by the *organization lobbyist*;
 - (B) the name and department of each *City Official* who was subject to *lobbying* by the *organization lobbyist* during the reporting period with regard to that specific *municipal decision*; and,
 - (C) the name of each owner, compensated officer, chairperson, or employee of the *organization lobbyist* who engaged in *lobbying activities* on behalf of the *organization lobbyist* during the reporting period with regard to that specific *municipal decision*; and,
 - (D) the total number of *lobbying contacts* with *City Officials* made on behalf of the *organization lobbyist* by the *organization lobbyist's* owners, compensated officers, chairperson, or employees with regard to that specific *municipal decision* during the reporting period.
 - (3) an itemization of *activity expenses* that includes the following:
 - (A) the date, amount, and description of any *activity expense* that exceeds \$10 on any single occasion made by the *organization lobbyist* or any of its *lobbyists* during the reporting period for the benefit of a single *City Official* or any member of a *City Official's immediate family*;
 - (B) the name, title, and department of the *City Official* who benefited, or whose *immediate family* benefited, from the itemized *activity expense*;
 - (C) the name of each *lobbyist* who participated in making the *activity expense*; and,
 - (D) the name and address of the payee of each itemized *activity expense*.

Clarifies that disclosure is required of small contributions that aggregate to at least \$100

- (4) an itemization of any campaign contributions ~~of totaling~~ totaling \$100 or more made by owners, compensated officers, or *lobbyists* (including any *chairperson who is a lobbyist*) of the *organization lobbyist* to a *candidate* or a *candidate-controlled* committee during the reporting period, including the date and amount of the contribution and the name of the *candidate* supported.

Clarifies that disclosure is required of chair who lobbies

- (5) an itemization of any campaign contributions ~~of totaling~~ totaling \$100 or more made by the *organization lobbyist* or any of its owners, compensated officers, or *lobbyists* (including any *chairperson who is a lobbyist*) during the reporting period to a *candidate-controlled* committee that is organized to support or oppose a ballot measure, including the date and amount of the contribution and the name of the ballot measure committee.

Clarifies that disclosure is required of chair who lobbies, and for efforts that collectively reach the fundraising activity threshold

- (6) for each ~~instance of fundraising activity~~ fundraising effort by an ~~owner, compensated officer, or lobbyist~~ any of the *organization lobbyist* *lobbyist's* owners, compensated officers, or *lobbyists* (including any *chairperson who is a lobbyist*) who engaged in *fundraising activities* during the reporting period:

- (A) the name of the owner, officer, or *lobbyist* who engaged in the *fundraising activity*;
- (B) the name of the elected *City Official* or *candidate* benefiting from the *fundraising activity*;
- (C) a description of the ballot measure, if any;
- (D) the date(s) of the *fundraising activity*;
- (E) a brief description of the *fundraising activity*; and
- (F) the approximate amount of (i) all contributions personally delivered by the owner, officer, or *lobbyist* to a *candidate* or a *candidate's* controlled committee; and (ii) all contributions for which the owner, officer, or *lobbyist* has identified himself or herself to a *candidate* or a *candidate's* controlled committee as having some degree of responsibility for raising.

- (7) for each ~~owner, compensated officer, and lobbyist of the organization lobbyist~~ of the organization lobbyist's owners, compensated officers, and *lobbyists* (including any *chairperson who is a lobbyist*) who personally provided ~~compensated~~ campaign-related services to a *candidate* or a *candidate-controlled* committee during the reporting period in exchange for compensation or pursuant to a contingency fee agreement:

Clarifies that disclosure is required of chair who lobbies, and for campaign worker whose compensation is contingency based.

- (A) the name of the owner, officer, or *lobbyist* who provided the services;

- (B) the *candidate's* name, and the office sought by that *candidate*;
- (C) the name of the *candidate*-controlled ballot measure committee and a description of the ballot measure, if applicable;
- (D) the approximate amount of *compensation* earned during the reporting period for the services provided to the *candidate* or *candidate*-controlled committee; and,
- (E) a description of the services provided.

- (8) for each ~~owner, compensated officer, and lobbyist of the organization~~ lobbyist of the organization lobbyist's owners, compensated officers and lobbyists (including any chairperson who is a lobbyist) who personally provided compensated services under a contract with the *City* during the reporting period:

Clarifies that disclosure is required of chair who lobbies

- (A) the name of the owner, officer, or *lobbyist* who provided the services;
- (B) the name of the department, agency, or board for which the services were provided;
- (C) the approximate amount of *compensation* earned during the reporting period for the services provided under the contract; and,
- (D) a description of the services provided.

- (9) a statement by a duly authorized owner or officer of the *organization lobbyist* that he or she has reviewed the contents of the quarterly disclosure report and verified under penalty of perjury that based on personal knowledge or on information and belief, that he or she believes such contents to be true, correct, and complete.
- (10) the printed name, title, and original signature of the individual making the statement required by subsection (b)(9).
- (11) any other information required by regulation of the *Enforcement Authority* consistent with the purposes and provisions of this division, and as approved by the *City Council*.

- (c) An *expenditure lobbyist's* quarterly disclosure report shall contain the following information:

- (1) The name, address, and telephone number of the *expenditure lobbyist*.

- (2) The name, title, address, and telephone number of the individual responsible for preparing the report.
- (3) A description of each *municipal decision* that the *expenditure lobbyist* attempted to influence during the reporting period, and for each such *municipal decision*:
 - (A) The total expenditures the *expenditure lobbyist* made during the reporting period for the purpose of attempting to influence that *municipal decision*. An expenditure is made on the date a *payment* is made or on the date consideration, if any, is received by the *expenditure lobbyist*, whichever is earlier. An *expenditure lobbyist* need not disclose expenditures for *lobbying activities* reported by a *lobbying firm* or *organization lobbyist* on a quarterly disclosure report.
 - (B) The name, address, telephone number, and amount of *payment* for each *person* who made a *payment*, or the promise of a *payment*, of \$100 or more to the *expenditure lobbyist* for the express purpose of funding any expenditure identified in subsection (c)(3)(A).
 - (C) The outcome sought by the *expenditure lobbyist*.
- (4) a statement by a duly authorized owner or officer of the *expenditure lobbyist* that he or she has reviewed the contents of the quarterly disclosure report and verified under penalty of perjury that based on personal knowledge or on information and belief, that he or she believes such contents to be true, correct, and complete.
- (5) the printed name, title, and original signature of the individual making the statement required by subsection (c)(4).
- (6) any other information required by regulation of the *Enforcement Authority* consistent with the purposes and provisions of this division, and as approved by the *City Council*.